



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,261	04/20/2000	LIMOR SCHWEITZER	XACTP016	5425

28875 7590 05/07/2003

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

EXAMINER

HU, JINSONG

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 05/07/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/553,261

Applicant(s)

SCHWEITZER ET AL.

Examiner

Jinsong Hu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 & 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-13 are presented for examination.
2. The abstract of the disclosure is objected to because it is too long.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Correction is required. See MPEP § 608.01(b).

3. The cross references related to the application cited in the specification must be updated [i.e., update the relevant status with PTO serial number or patent number where appropriate, on page 2, lines 8-9]. Correction is required.

4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following terms lack proper antecedent basis:

i. As per claim 1, line 5, "the second analyzer."

B. The claim language in the following claims is not clearly understood.

i. As per claim 1, lines 3, it is unclear the definition of "session reconstruction analysis" [i.e., it refers to analyzing the session or reconstruct the session]; lines 1-9, it is uncertain the relation between first analyzer, second analyzer and third analyzer [i.e., are they the same type analyzers or different type analyzers]

Correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleichauf et al. (6,499,107 B1).

7. As per claims 1 and 10, Gleichauf teaches the invention substantially as claimed including a method of reconstructing a session using a first analyzer [4, Fig. 1] coupled to a second analyzer [5, Fig. 1] and a data collector [36, Fig. 2] the method comprising:

performing session reconstruction analysis on packets received at the first analyzer [100, 104, Fig. 4; col. 4, lines 4-7];

responsive to successful session reconstruction on the first analyzer, sending a first message to at least one of the second analyzer and the data collector, the first message corresponding to session data [col. 8, lines 18-30]; and

the second analyzer also receiving one or more messages from a third analyzer [col. 8, lines 25-30; i.e., there are more than one protocol analyzer in the system].

8. Gleichauf does not specifically teach the step of sending one or more messages to the second analyzer responsive to unsuccessful session reconstruction on the first analyzer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to send message to the second analyzer because doing so would increase the efficiency of the system by avoiding analyzing the data packet further if it could not pass the first analyzer. One of ordinary skill in the art would have been motivated to modify the system to improve the performance.

9. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCreery et al. (US 5,787,253).

Art Unit: 2154

10. As per claim 1, McCreery teaches the invention substantially as claimed including a method of reconstructing a session using a first analyzer [336, Fig. 4c] coupled to a second analyzer [346, Fig. 4c] and a data collector [342, Fig. 4c] the method comprising:

performing session reconstruction analysis on packets received at the first analyzer [col. 2, lines 20-22];

responsive to successful session reconstruction on the first analyzer, sending a first message to at least one of the second analyzer and the data collector, the first message corresponding to session data [col. 2, lines 22-24 & 34-39]; and

11. McCreery does not specifically teach that the second analyzer receives the messages from a third analyzer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made that including a third analyzer in McCreery's system for analyzing the data stream from multiple sources because doing so would increase the speed of the system.

12. McCreery does not specifically teach the step of sending one or more messages to the second analyzer responsive to unsuccessful session reconstruction on the first analyzer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include sending message to the second analyzer in Abromavage's system because doing so would increase the efficiency of the system by avoiding analyzing the data packet further if it could not pass the first analyzer. One of

Art Unit: 2154

ordinary skill in the art would have been motivated to modify the system to improve the performance.

13. As per claim 2, McCreery teaches that the one or more messages from the first analyzer to the second analyzer comprise packets received by the first analyzer [col. 2, lines 20-36].

14. As per claims 3 and 4, McCreery teaches that the one or more messages from the first analyzer to the second analyzer further comprise a time the packet was received and an address information for the packet [col. 2, lines 22-24].

15. As per claim 5, McCreery teaches the step of filtering the packets before them reach the first analyzer [col. 2, lines 16-20].

16. As per claim 6, since it does not introduce further limitation from claim 1, it is rejected for the same basis as claim 1 above.

17. As per claims 7-9, McCreery teaches that the second analyzer performing the session reconstruction based on the messages received from first analyzer and sending a second message to the data collector [col. 2, lines 34-39].

18. As per claims 10-13, since they are system claims of claims 1-9, they are rejected for the same basis as claims 1-9 above.

19. Claim 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abromavage et al. (WO 00/68811).

20. Abromavage is a prior art reference cited by Applicant, filed on 6/25/01.

21. As per claim 1, Abromavage teaches the invention substantially as claimed including a method of reconstructing a session using a first analyzer coupled to a second analyzer [112, 120, Fig. 1] and a data collector [122, Fig. 1] the method comprising:

performing session reconstruction analysis on packets received at the first analyzer [col. 5, lines 14-19; col. 6, lines 3-10];

responsive to successful session reconstruction on the first analyzer, sending a first message to at least one of the second analyzer and the data collector, the first message corresponding to session data [col. 6, lines 14-22]; and

22. Abromavage does not specifically teach that the second analyzer receives the messages from a third analyzer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made that including a third analyzer in

Art Unit: 2154

Abromavage's system for analyzing the data stream from multiple sources because doing so would increase the speed of the system.

23. Abromavage does not teach the step of sending one or more messages to the second analyzer responsive to unsuccessful session reconstruction on the first analyzer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include sending message to the second analyzer in Abromavage's system because doing so would increase the efficiency of the system by avoiding analyzing the data packet further if it could not pass the first analyzer. One of ordinary skill in the art would have been motivated to modify the system to improve the performance.

24. As per claim 2, Abromavage teaches that the one or more messages from the first analyzer to the second analyzer comprise packets received by the first analyzer [col. 6, lines 14-15].

25. As per claims 3 and 4, Abromavage teaches that the one or more messages from the first analyzer to the second analyzer further comprise a time the packet was received and an address information for the packet [col. 5, lines 14-19; col. 6, lines 14-15 & 23-27].

Art Unit: 2154

26. As per claim 6, since it does not introduce further limitation from claim 1, it is rejected for the same basis as claim 1 above.

27. As per claims 7-9, Abromavage teaches that the second analyzer performing the session reconstruction based on the messages received from first analyzer and sending a second message to the data collector [col. 6, lines 16-27; col. 10, lines 3-7].

28. As per claims 10-13, since they are system claims of claims 1-9, they are rejected for the same basis as claims 1-9 above.

29. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abromavage et al. (WO 00/68811) in view of McCreery et al. (US 5,787,253).

30. As per claim 5, Abromavage teaches the invention substantially as claimed in claim 1. Abromavage does not specifically teach that the packets received at the first analyzer are output from a filter for controlling which packets in a plurality of packets flowing into the filter reach the first analyzer.

31. However, McCreery on the other hand teaches the step of filtering the packets before them reach the first analyzer [col. 2, lines 16-20]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to filter the packets before analyzing the packets because doing so would relieve the burden of the

Art Unit: 2154

system by avoiding analyzing undesired packets. One of ordinary skill in the art would have been motivated to modify Abromavage's system with McCreery's filter to increase the efficiency of the system.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Chiu et al. (US 5,101,402) discloses a network monitoring system;

Abramson et al. (US 6,539,494) discloses a session back up system;

Aziz et al. (US 6,018,721) discloses a collateral monitoring system; and

Braddy (US 6,141,759) disclose a network monitoring system.

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (703) 306-5932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An, can be reached on (703) 305-9678. The fax number for this Group is (703) 308-9052. Additionally, the fax numbers for Group 2100 are as follow:

Official Faxes: (703) 746-7239

After Final Responses: (703) 746-7238

Draft Responses: (703) 746-7240

Art Unit: 2154

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 305-3900.

Jinsong Hu

April 30, 2003



MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100